

## CHAPTER 521A

### INSURANCE HOLDING COMPANY SYSTEMS

Referred to in [§87.4](#), [296.7](#), [331.301](#), [364.4](#), [505.28](#), [505.29](#), [507C.12](#), [508.5](#), [508.9](#), [508B.2](#), [510.1B](#), [510.6](#), [515.8](#), [515.12](#), [515G.2](#), [521.16](#), [521C.2](#), [521C.6](#), [521C.9](#), [669.14](#), [670.7](#)

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### GENERAL PROVISIONS

#### 521A.1 Definitions.

For the purpose of [this chapter](#), unless the context otherwise requires:

1. “*Affiliate of*”, or a person affiliated with, a specific person, shall mean a person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

2. The term “*commissioner*” shall mean the insurance commissioner, the commissioner’s deputies, or the insurance division, as appropriate.

3. “*Control*”, including “*controlling*”, “*controlled by*”, and “*under common control with*”, shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is solely the result of an official position with or a corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided in [section 521A.3, subsections 1 through 5](#), inclusive, or [section 521A.4, subsection 11](#), whichever is applicable, that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

4. “*Domestic insurer*” means an insurer organized or created under the laws of this state except an insurer excluded under [subsection 8](#).

5. “*Enterprise risk*” means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including but not limited to anything that would cause the insurer’s risk-based capital to fall into a company-action-level event as set forth in [section 521E.3](#) for insurers or [section 521F.4](#) for health organizations, or would cause the insurer to be in hazardous financial condition pursuant to [191 IAC ch. 110](#).

6. “*Group-wide supervisor*” means a regulatory official who is authorized, and who is determined or acknowledged by the commissioner pursuant to [section 521A.6B](#) to have

sufficient significant contacts with an internationally active insurance group, to engage in conducting and coordinating group-wide supervision of the internationally active insurance group.

7. “*Insurance holding company system*” shall consist of two or more affiliated persons, one or more of which is an insurer.

8. “*Insurer*” means a company qualified and licensed by the insurance division to transact the business of insurance in this state by certificate issued pursuant to [chapters 508, 512B, 514, 514B, 515, 515E, and 520](#), except that it shall not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

9. “*Internationally active insurance group*” means an insurance holding company system that includes an insurer registered under [section 521A.4](#) and that meets all of the following criteria:

a. The insurance holding company system has premiums written in at least three countries.

b. The percentage of gross premiums written outside the United States is at least ten percent of the insurance holding company system’s total gross written premiums.

c. Based on a three-year rolling average, the total assets of the insurance holding company system are at least fifty billion dollars or the total gross written premiums of the insurance holding company system are at least ten billion dollars.

10. A “*person*” is an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but does not include a joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.

11. A “*securityholder*” of a specified person is one who owns any security of such person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

12. A “*subsidiary*” of a specified person is an affiliate controlled by such person directly, or indirectly through one or more intermediaries.

13. “*Supervisory college*” means a temporary or permanent forum for communication and cooperation between regulators charged with supervision of an insurer or its affiliates.

14. The term “*voting security*” shall include any security convertible into or evidencing a right to acquire a voting security.

[C71, 73, 75, 77, 79, 81, §521A.1]

[86 Acts, ch 1102, §1, 2; 90 Acts, ch 1234, §72; 97 Acts, ch 186, §25; 2006 Acts, ch 1117, §112; 2014 Acts, ch 1018, §1, 2; 2016 Acts, ch 1122, §7](#)

Referred to in [§507C.2, 508.33A, 510A.2, 511.8\(22\)\(b\), 515.125, 515.128, 515B.2, 515G.1, 518C.3, 521.16, 521H.2, 521H.6, 522.2](#)

## **521A.2 Subsidiaries of insurers.**

1. *Authorization.* Any domestic insurer, either by itself or in cooperation with one or more persons, subject to the limitations set forth herein or elsewhere in [this chapter](#), may organize or acquire one or more subsidiaries engaged or registered to engage in one or more of the following businesses or activities:

a. Any kind of insurance business authorized by the jurisdiction in which it is incorporated.

b. Acting as an insurance producer for its parent or for any of its parent’s insurer subsidiaries or intermediate insurer subsidiaries.

c. Investing, reinvesting, or trading in securities and financial instruments as defined in [section 511.8, subsection 22](#), for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary.

d. Management of any investment company subject to or registered pursuant to the Investment Company Act of 1940, as amended, including related sales and services.

e. Acting as a broker dealer subject to or registered pursuant to the Securities Exchange Act of 1934 as amended.

f. Rendering financial services or advice to individuals, governments, government agencies, corporations, or other organizations or groups.

g. Rendering other services related to the operations of an insurance business including but not limited to actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal, and collection services.

h. Ownership and management of assets which the parent corporation could itself own and manage. However, the aggregate investment by the insurer and its subsidiaries acquired or organized pursuant to this paragraph shall not exceed the limitations applicable to the investments by the insurer.

i. Acting as administrative agent for a government instrumentality which is performing an insurance function.

j. Financing of insurance premiums, agents and other forms of consumer financing.

k. Any other business or service activity reasonably ancillary to an insurance business.

l. Owning a corporation or corporations engaged or organized to engage exclusively in one or more of the businesses specified in paragraphs “a” to “k” inclusive.

2. *Exception.* Nothing contained in [subsection 1 of this section](#) shall prohibit a domestic insurer, either by itself or in cooperation with one or more persons, from investing amounts up to a total of ten percent of surplus in one or more subsidiaries or affiliates organized to do any lawful business.

3. *Additional investment authority.* In addition to investments in common stock, preferred stock, debt obligations and other securities permitted under all other sections of this subtitle, a domestic insurer may also:

a. Invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts which do not exceed the lesser of ten percent of the insurer’s assets or fifty percent of the insurer’s surplus as regards policyholders, if after the investments the insurer’s surplus as regards policyholders will be reasonable in relation to the insurer’s outstanding liabilities and adequate to its financial needs. In calculating the amount of the investments, investments in domestic or foreign insurance subsidiaries shall be excluded and both of the following shall be included:

(1) Total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of such subsidiary whether or not represented by the purchase of capital stock or issuance of other securities.

(2) All amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus, of a subsidiary subsequent to its acquisition or formation.

b. Invest any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries provided that each such subsidiary agrees to limit its investments in any asset so that such investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in paragraph “a” of [this subsection](#) or in [chapters 511, 515, 518A, and 520](#) applicable to the insurer. For the purpose of this paragraph, “*total investment of the insurer*” shall include both:

(1) Any direct investment by the insurer in an asset.

(2) The insurer’s proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary’s investment by the percentage of the insurer’s ownership of such subsidiary.

c. With the approval of the commissioner, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries, if after the investment the insurer’s surplus as regards policyholders is reasonable in relation to the insurer’s outstanding liabilities and adequate to its financial needs.

d. Invest, reinvest, and trade in financial instruments as defined in [section 511.8, subsection 22](#), for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary.

4. *Exemption from investment restrictions.* Investments in common stock, preferred stock, debt obligations or other securities of subsidiaries made pursuant to [subsection 3 of this section](#) hereof shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in the Code applicable to such investments of insurers.

5. *Qualification of investment — when determined.* Whether any investment pursuant

to [subsection 3](#) meets the applicable requirements of the subsection is to be determined before the investment is made by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the day they were made, net of any return of capital invested, excluding dividends.

6. *Cessation of control.* If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to [this section](#) within three years from the time of the cessation of control or within such further time as the commissioner may prescribe, unless at any time after such investment shall have been made, such investment shall have met the requirements for investment under any other section of the Code, and the insurer has notified the commissioner thereof.

[C71, 73, 75, 77, 79, 81, §521A.2; 82 Acts, ch 1051, §3]

86 Acts, ch 1102, §3 – 8; 87 Acts, ch 115, §65; 91 Acts, ch 26, §48; 2001 Acts, ch 16, §11, 37; 2006 Acts, ch 1117, §113, 114

Referred to in §521A.5

### **521A.3 Acquisition of control of or merger with domestic insurer.**

#### **1. Filing requirements.**

a. No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, such person would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of such insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer unless, at the time any such offer, request, or invitation is first made or any such agreement is entered into, or prior to the acquisition of such securities if no offer or agreement is involved, such person has first filed with the commissioner and has sent to such insurer, a statement containing the information required by [this section](#) and such offer, request, invitation, agreement, or acquisition has been approved by the commissioner in the manner hereinafter prescribed.

b. For purposes of [this section](#), any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer, in any manner, shall file with the commissioner, with a copy to the insurer, confidential notice of its proposed divestiture at least thirty days prior to the cessation of control. The commissioner shall determine those instances in which the party seeking to divest or to acquire a controlling interest in an insurer, shall be required to file for and obtain approval of the transaction. The information shall remain confidential until the conclusion of the transaction unless the commissioner, in the commissioner's discretion, determines that confidential treatment will interfere with enforcement of [this section](#). If the statement referred to in paragraph "a" is otherwise filed, this paragraph "b" shall not apply.

c. For purposes of [this section](#) a "domestic insurer" shall include any other person controlling a domestic insurer unless the other person is either directly or through its affiliates primarily engaged in business other than the business of insurance. However, for purposes of [this section](#) "person" does not include a securities broker holding, in the usual and customary broker's function, less than twenty percent of the voting securities of an insurance company or of a person which controls an insurance company.

#### **2. Content of statement.**

a. The statement to be filed with the commissioner hereunder shall be made under oath or affirmation and shall contain the following:

(1) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in [subsection 1](#) is to be effected, hereinafter called "acquiring party".

(a) If such person is an individual, the individual's principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years.

(b) If such person is not an individual, a report of the nature of its business operations

during the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such person and such person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of such person, or who perform or will perform functions appropriate to such positions. Such list shall include for each such individual the information required by subparagraph division (a).

(2) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction in which funds were or are to be obtained for any such purpose including a pledge of the insurer's stock, or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing the consideration. However, if a source of the consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing the statement so requests.

(3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not earlier than ninety days prior to the filing of the statement.

(4) Any plans or proposals which each acquiring party may have to liquidate such insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

(5) The number of shares of any security referred to in [subsection 1](#) which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in [subsection 1](#), and a statement as to the method by which the fairness of the proposal was arrived at.

(6) The amount of each class of any security referred to in [subsection 1](#) which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

(7) A full description of any contracts, arrangements or understandings with respect to any security referred to in [subsection 1](#) in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.

(8) A description of the purchase of any security referred to in [subsection 1](#) during the twelve calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefor.

(9) A description of any recommendations to purchase any security referred to in [subsection 1](#) made during the twelve calendar months preceding the filing of the statement, by any acquiring party, or by anyone based upon interview or at the suggestion of such acquiring party.

(10) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in [subsection 1](#), and, if distributed, of additional soliciting material relating thereto.

(11) The terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of securities referred to in [subsection 1](#) for tender, and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto.

(12) An agreement by the person required to file the statement referred to in [subsection 1](#) that the person will provide the annual report specified in [section 521A.4, subsection 12](#) for so long as control exists.

(13) An acknowledgment by the person required to file the statement referred to in [subsection 1](#) that the person and all subsidiaries within its control in the insurance holding company system will provide information to the commissioner upon request as necessary to evaluate enterprise risk to the insurer.



(14) Additional information as the commissioner may by rule prescribe as necessary or appropriate for the protection of policyholders of the insurer or in the public interest.

b. If the person required to file the statement referred to in [subsection 1](#) is a partnership, limited partnership, syndicate or other group, the commissioner may require that the information called for by paragraph “a”, subparagraphs (1) through (14) shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person who controls such partner or member. If any such partner, member, or person is a corporation or the person required to file the statement referred to in [subsection 1](#) is a corporation, the commissioner may require that the information called for by paragraph “a”, subparagraphs (1) through (14) shall be given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent of the outstanding voting securities of such corporation. If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to such insurer pursuant to [this section](#), an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the commissioner and sent to such insurer within two business days after the person learns of such change. Such insurer shall send such amendment to its shareholders.

3. *Alternative filing materials.* If any offer, request, invitation, agreement, or acquisition referred to in [subsection 1](#) of [this section](#) is proposed to be made by means of a registration statement under the Securities Act of 1933 or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration, or disclosure, the person required to file the statement referred to in [subsection 1](#) of [this section](#) may utilize such documents in furnishing the information called for by that statement.

4. *Approval by the commissioner — hearings.*

a. The commissioner shall approve any merger or other acquisition of control referred to in [subsection 1](#) if, after a public hearing on such merger or acquisition, the applicant has demonstrated to the commissioner all of the following:

(1) After the change of control the domestic insurer referred to in [subsection 1](#) will be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed.

(2) The effect of the merger or other acquisition of control will not substantially lessen competition in insurance in this state.

(3) The financial condition of any acquiring party will not jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders.

(4) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are not unfair or unreasonable to policyholders of the insurer and are not contrary to the public interest.

(5) The competence, experience, and integrity of those persons who would control the operation of the insurer are sufficient to indicate that the interests of policyholders of the insurer and of the public will not be jeopardized by the merger or other acquisition of control.

(6) The merger or other acquisition of control is not likely to be hazardous or prejudicial to the insurance-buying public.

b. The public hearing referred to in paragraph “a” shall be held within thirty days after the commissioner has determined that the statement required by [subsection 1](#) has been completed and contains all the required information set forth in [subsection 2](#), and at least twenty days’ notice of the public hearing shall be given by the commissioner to the person filing the statement and to the domestic insurer. Not less than seven days’ notice of the public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the commissioner. The commissioner shall make a determination within thirty days after the conclusion of the hearing. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interests may be affected shall have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments and in

connection therewith shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in the district court of this state. All discovery proceedings shall be concluded not later than three days prior to the commencement of the public hearing.

c. If the proposed merger or other acquisition of control will require the approval of more than one commissioner, the public hearing referred to in paragraph “a” may be held on a consolidated basis upon request of the person filing the statement referred to in [subsection 1](#). Such person may file the statement referred to in [subsection 1](#) with the national association of insurance commissioners within five days of making the request for a public hearing. The commissioner may opt out of a consolidated hearing, and shall provide notice to the applicant of the opt-out within ten days of the receipt of the statement referred to in [subsection 1](#). A hearing conducted on a consolidated basis shall be public and shall be held within the United States before the commissioners of the states in which the insurers are domiciled. Such commissioners shall hear and receive evidence. The commissioner may attend such hearing in person or by telecommunication.

d. The commissioner may retain any attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner’s staff as may be reasonably necessary to assist the commissioner in reviewing the proposed merger or acquisition of control, the reasonable cost of which shall be paid by the acquiring party.

5. *Exemptions.* The provisions of [this section](#) shall not apply to any offer, request, invitation, agreement, or acquisition which the commissioner by order shall exempt therefrom for one of the following reasons:

a. It has not been made or entered into for the purpose and does not have the effect of changing or influencing the control of a domestic insurer.

b. It is otherwise not comprehended within the purposes of [this section](#).

6. *Violations.* The following shall be violations of [this section](#):

a. The failure to file any statement, amendment, or other material required to be filed pursuant to [subsection 1 or 2 of this section](#).

b. The effectuation or any attempt to effectuate an acquisition of control of, or merger with, a domestic insurer unless the commissioner has given approval thereto.

7. *Jurisdiction — consent to service of process.* The district court is hereby vested with jurisdiction over a person that is not a resident, is not domiciled, or is not authorized to do business in this state that files a statement with the commissioner under [this section](#), and over all actions involving the person arising out of violations of [this section](#), and the person shall be deemed to have performed acts equivalent to and constituting an appointment by the person of the commissioner to be the person’s true and lawful attorney upon whom may be made all lawful process, notice, or demand in any action, suit, or proceeding arising out of a violation of [this section](#). A copy of all such lawful process, notice, or demand shall be made on the commissioner as the attorney for service of process as provided in [section 505.30](#).

[C71, 73, 75, 77, 79, 81, §521A.3; 82 Acts, ch 1051, §4 – 6]

86 Acts, ch 1102, §9 – 11; 91 Acts, ch 26, §49, 50; 93 Acts, ch 88, §26; 97 Acts, ch 186, §26; 2012 Acts, ch 1023, §129; 2014 Acts, ch 1018, §3 – 9; 2018 Acts, ch 1018, §12

Referred to in §505.23, 508B.13, 521.16, 521A.1, 521A.9, 521A.14

#### **521A.4 Registration of insurers — enterprise risk report.**

1. *Registration.* An insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards which are substantially similar to those contained in [this section](#) and [section 521A.5, subsection 1](#), paragraph “a”, and are adopted by statute or regulation in the jurisdiction of its domicile. The insurer shall also file a copy of the summary of its registration statement as required by [subsection 4](#) in each state in which that insurer is authorized to do business if requested to do so by the commissioner of that state. An insurer which is subject to registration under [this section](#) shall register within fifteen days after it becomes subject to registration and annually thereafter by March 31 of each year for the previous calendar year unless the commissioner for good cause shown extends the time for registration, and then within the extended time. The commissioner may require any authorized insurer which is a member of

a holding company system which is not subject to registration under [this section](#) to furnish a copy of the registration statement or other information filed by the insurance company with the insurance regulatory authority of the company's domiciliary jurisdiction.

2. *Information and form required.* Every insurer subject to registration shall file a registration statement on a form prescribed by the commissioner, which may be a form provided by the national association of insurance commissioners, which shall contain current information about:

a. The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer.

b. The identity and relationship of every member of the insurance holding company system.

c. The following agreements in force, relationships subsisting, and transactions currently outstanding or which have occurred during the last calendar year between the insurer and its affiliates:

(1) Loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates.

(2) Purchases, sales, or exchanges of assets.

(3) Transactions not in the ordinary course of business.

(4) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business.

(5) All management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles.

(6) Reinsurance agreements.

(7) Dividends and other distributions to shareholders.

(8) Consolidated tax allocation agreements.

d. A pledge of the insurer's stock, including stock of a subsidiary or controlling affiliate, for a loan made to a member of the insurance holding company system.

e. If requested by the commissioner, the insurer shall include financial statements of or within an insurance holding company system, including all affiliates. Financial statements may include but are not limited to annual audited financial statements filed with the United States securities and exchange commission pursuant to the federal Securities Act of 1933, as amended, or the federal Securities Exchange Act of 1934, as amended. An insurer required to file financial statements pursuant to this paragraph may satisfy the request by providing the commissioner with the most recently filed financial statements of the parent corporation that have been filed with the United States securities and exchange commission.

f. Statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures.

g. Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner.

h. Any other information required by the commissioner by rule or by regulation.

3. *Materiality.* Information need not be disclosed on the registration statement filed pursuant to [subsection 2](#) if the information is not material for the purposes of [this section](#). Unless the commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments or guarantees involving one-half of one percent or less of an insurer's admitted assets as of the next preceding December 31 are not material for purposes of [this section](#).

4. *Reporting of dividends to shareholders.* Subject to [section 521A.5, subsection 3](#), a registered insurer shall report to the commissioner all dividends and other distributions to shareholders within fifteen days following the declaration of the dividends or distributions.

5. *Summary of registration statement.* All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the next preceding registration statement.



6. *Information of insurers.* Any person within an insurance holding company system subject to registration is required to provide complete and accurate information to an insurer if the information is reasonably necessary to enable the insurer to comply with [this chapter](#).

7. *Termination of registration.* The commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

8. *Consolidated filing.* The commissioner may require or allow two or more affiliated insurers subject to registration hereunder to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

9. *Alternative registration.* The commissioner may allow an insurer which is authorized to do business in this state and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under [subsection 1 of this section](#) and to file all information and material required to be filed under [this section](#).

10. *Exemptions.* The provisions of [this section](#) shall not apply to any insurer, information, or transaction if and to the extent that the commissioner by rule, regulation, or order shall exempt the same from the provisions of [this section](#).

11. *Disclaimer.* Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and basis for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. A disclaimer of affiliation shall be deemed to have been granted unless the commissioner, within thirty days following receipt of a complete disclaimer, notifies the filing party that the disclaimer is disallowed. In the event of disallowance, the disclaiming party may request an administrative hearing, which shall be granted. The disclaiming party shall be relieved of its duty to register under [this section](#) if approval of the disclaimer has been granted by the commissioner, or if the disclaimer is deemed to have been granted.

12. *Enterprise risk report.* The ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report. The report shall, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report shall be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners.

13. *Violations.* The failure to file a registration statement or a summary of the registration statement or an enterprise risk report required by [this section](#) within the time specified for the filing is a violation of [this section](#).

[C71, 73, 75, 77, 79, 81, §521A.4]

[86 Acts, ch 1102, §12 – 18; 87 Acts, ch 115, §66; 91 Acts, ch 26, §51 – 53; 2014 Acts, ch 1018, §10 – 13](#)

Referred to in [§508.33A, 521A.1, 521A.3, 521A.5, 521A.6, 521A.6A, 521A.6B, 521A.7, 521A.10, 521H.3](#)

### **521A.5 Standards.**

1. *Transactions within a holding company system affecting domestic insurers.*

a. Material transactions by registered insurers with their affiliates are subject to the following standards:

- (1) The terms shall be fair and reasonable.
- (2) Agreements for cost-sharing services and management shall include such provisions as required by rule issued by the commissioner.
- (3) Charges or fees for services performed shall be reasonable.
- (4) Expenses incurred and payment received shall be allocated to the insurer in conformity with customary and consistently applied insurance accounting practices.
- (5) The books, accounts, and records of each party shall be so maintained as to clearly and accurately disclose the precise nature and details of the transactions.
- (6) After any material transaction with an affiliate and after any dividends or distributions

to shareholder affiliates, the insurer's surplus as regards policyholders shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

b. A domestic insurer and a person in its holding company system shall not enter into any of the following transactions between each other involving amounts equal to or exceeding the lesser of three percent of a nonlife insurer's admitted assets or twenty-five percent of the surplus as regards policyholders with respect to nonlife insurers, and equal to or exceeding three percent of the insurer's admitted assets with respect to life insurers, each as of the next preceding December 31, unless the domestic insurer notifies the commissioner in writing of its intention to enter into the transaction at least thirty days prior to entering into the transaction or within a shorter time permitted by the commissioner and the commissioner has not disapproved of the transaction within the time period:

- (1) Sales.
- (2) Purchases.
- (3) Exchanges.
- (4) Loans or extensions of credit.
- (5) Investments.

(6) Loans or extensions of credit to a person who is not an affiliate, if the domestic insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, an affiliate of the domestic insurer making the loans or extensions of credit.

c. A domestic insurer and a person in its holding company system shall not enter into any of the following transactions, unless the domestic insurer notifies the commissioner in writing of its intention to enter into the transaction at least thirty days prior to entering into the transaction or within a shorter time permitted by the commissioner and the commissioner has not disapproved of the transaction within the time period:

- (1) All reinsurance pooling agreements.

(2) All reinsurance agreements or modifications to such agreements in which the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three years, equals or exceeds five percent of the insurer's surplus as regards policyholders, as of the next preceding December 31, including those agreements which may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer.

(3) All management agreements, service contracts, tax allocation agreements, guarantees, and all other cost-sharing arrangements. A guarantee which is quantifiable as to amount is not subject to the notice requirements of this paragraph "c" unless it exceeds the lesser of one-half of one percent of the insurer's admitted assets or ten percent of surplus as regards policyholders as of the next preceding December 31. Further, all guarantees which are not quantifiable as to amount are subject to the notice requirements of this paragraph "c".

(4) Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount which, together with its present holdings in such investments, exceeds two and one-half percent of the insurer's surplus to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired pursuant to [section 521A.2](#) or authorized under any other section of [this chapter](#), or in nonsubsidiary insurance affiliates that are subject to the provisions of [this chapter](#), are exempt from this subparagraph.

(5) Any material transactions specified by rule which the commissioner determines may adversely affect the interests of the domestic insurer's policyholders.

d. [This subsection](#) does not authorize or permit any transactions which in the case of an insurer would be otherwise contrary to law.

e. A domestic insurer shall not enter into transactions which are part of a plan or series of like transactions with a person or persons within the holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the commissioner determines that such

separate transactions were entered into over a twelve-month period for that purpose, the commissioner may exercise the authority under [section 521A.10](#).

f. The commissioner, in reviewing transactions pursuant to paragraphs “b” and “c”, shall consider whether the transactions comply with the standards set forth in paragraph “a”.

g. A domestic insurer shall notify the commissioner within thirty days of an investment of the insurer in a corporation if the total investment in the corporation by the insurance holding company system exceeds ten percent of the corporation’s voting securities.

2. *Adequacy of surplus.* For purposes of [this chapter](#) in determining whether an insurer’s surplus as regards policyholders is reasonable in relation to the insurer’s outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

a. The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria.

b. The extent to which the insurer’s business is diversified among the several lines of insurance.

c. The number and size of risks insured in each line of business.

d. The extent of the geographical dispersion of the insurer’s insured risks.

e. The nature and extent of the insurer’s reinsurance program.

f. The quality, diversification, and liquidity of the insurer’s investment portfolio.

g. The recent past and projected future trend in the size of the insurer’s surplus as regards policyholders.

h. The surplus as regards policyholders maintained by other comparable insurers.

i. The adequacy of the insurer’s reserves.

j. The quality and liquidity of investments in subsidiaries made pursuant to [section 521A.2](#). The commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the commissioner’s judgment such investment so warrants.

k. The quality of the company’s earnings and the extent to which the reported earnings include extraordinary items.

3. *Dividends and other distributions.*

a. (1) A domestic insurer may declare and pay dividends to its shareholders only from earned surplus.

(2) For the purposes of this paragraph, “*earned surplus*” means surplus as regards policyholders less paid-in and contributed surplus, and may include a fair revaluation of assets by the board of directors that is reasonable under the circumstances. Assets revalued by the board of directors cannot be included in earned surplus until thirty days after the commissioner has received notice of the revaluation and has approved the revaluation. The commissioner shall approve or disapprove the revaluation within thirty days after receiving notice of the revaluation unless for good cause the commissioner extends the approval period for an additional thirty days.

b. (1) A domestic insurer shall not pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until thirty days after the commissioner has received notice of the declaration of the dividend or distribution and has not disapproved such payment within the period, or until the time the commissioner has approved the payment within the thirty-day period.

(2) For purposes of this paragraph, an “*extraordinary dividend or distribution*” includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve months exceeds the greater of the following:

(a) Ten percent of insurer’s surplus as regards policyholders as of the thirty-first day of December next preceding.

(b) The net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, for the twelve-month period ending the thirty-first day of December next preceding.

(3) An extraordinary dividend or distribution does not include pro rata distributions of any class of the insurer’s own securities.

c. A domestic insurer subject to registration under [section 521A.4](#) shall report to the commissioner all dividends to shareholders within five business days following the declaration of the dividends and not less than fourteen days prior to the payment of the dividends. This report shall also include a schedule setting forth all dividends or other distributions made within the previous twelve months.

d. Notwithstanding any other provision of law, a domestic insurer may declare an extraordinary dividend or distribution which is conditional upon the commissioner's approval of the dividend or distribution. Such declaration does not confer any rights upon shareholders until the commissioner has approved the payment of the dividend or distribution or the commissioner has not disapproved the payment within the thirty-day period as provided in paragraph "b".

4. *Management of domestic insurers subject to registration.*

a. Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to assure its separate operating identity consistent with [this chapter](#).

b. Nothing in [this section](#) shall preclude a domestic insurer from having or sharing a common management, or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of [this section](#).

c. Not less than one-third of the directors of a domestic insurer, and not less than one-third of the members of each committee of the board of directors of any domestic insurer, shall be persons who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or entity. At least one such person must be included in any quorum for the transaction of business at any meeting of the board of directors or any committee of the board of directors.

d. The board of directors of a domestic insurer shall establish one or more committees comprised solely of directors or other persons appointed by the board, the majority of whom are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees shall have responsibility for recommending or nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers.

e. The provisions of paragraphs "c" and "d" shall not apply to a domestic insurer if the person controlling the insurer, such as an insurer, a mutual insurance holding company, or a publicly held corporation, has a board of directors and committees of the board of directors that meet the requirements of paragraphs "c" and "d" with respect to such controlling entity.

f. An insurer may make application to the commissioner for a waiver from the requirements of [this subsection](#) if the insurer's annual direct written and assumed premium, excluding premiums reinsured with the federal crop insurance corporation and federal flood program, is less than three hundred million dollars. An insurer may also make application to the commissioner for a waiver from the requirements of [this subsection](#) based upon unique circumstances. The commissioner may consider various factors including but not limited to the type of business entity, volume of business written, availability of qualified board members, or the ownership or organizational structure of the entity.

[C71, 73, 75, 77, 79, 81, §521A.5]

[86 Acts, ch 1102, §19, 20; 91 Acts, ch 26, §54; 92 Acts, ch 1117, §40, 43; 93 Acts, ch 88, §27 – 30; 94 Acts, ch 1006, §1; 94 Acts, ch 1023, §125; 2012 Acts, ch 1023, §157; 2014 Acts, ch 1018, §14 – 17; 2015 Acts, ch 128, §25, 50, 51; 2016 Acts, ch 1073, §157](#)

Referred to in [§508.33A, 511.8\(2\)\(b\), 521A.4, 521A.7, 521A.10](#)

## **521A.6 Examination — penalties — expenses.**

1. *Power of commissioner.* Subject to the limitation contained in [this section](#) and in addition to the powers which the commissioner has under [chapter 507](#) relating to the

examination of insurers, the commissioner shall have the power to examine any insurer registered under [section 521A.4](#) and its affiliates to ascertain the financial condition of the insurer, including the enterprise risk to the insurer by the ultimate controlling party, or by any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

2. *Access to books and records — penalty.*

a. The commissioner may order an insurer registered under [section 521A.4](#) to produce records, books, or other information papers in the possession of the insurer or its affiliates as reasonably necessary or to determine compliance with [this chapter](#).

b. To determine compliance with [this chapter](#), the commissioner may order any insurer registered under [section 521A.4](#) to produce information not in the possession of the insurer if the insurer can obtain access to such information pursuant to a contractual relationship, statutory obligation, or other method. In the event the insurer cannot obtain the information requested by the commissioner, the insurer shall provide the commissioner a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of the information. Whenever it appears to the commissioner that the detailed explanation is without merit, the commissioner may require, after notice and hearing, the insurer to pay a penalty of five hundred dollars for each day's delay, or may suspend or revoke the insurer's certificate of authority.

3. *Compelling production.* In the event the insurer fails to comply with an order, the commissioner shall have the power to examine the affiliates to obtain the information. The commissioner shall also have the power to issue subpoenas, to administer oaths, and to examine under oath any person for purposes of determining compliance with [this section](#). Upon the failure or refusal of any person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court. Every person shall be obliged to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state. Such a person shall be entitled to the same fees and mileage, if claimed, as a witness in district court, which fees, mileage, and actual expense, if any, necessarily incurred in securing the attendance of witnesses, and their testimony, shall be itemized and charged against, and be paid by, the company being examined.

4. *Use of consultants.* The commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as shall be reasonably necessary to assist in the conduct of the examination under [subsection 1, 2, or 3 of this section](#). Any persons so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

5. *Expenses.* Each registered insurer producing for examination records, books, and papers pursuant to [subsection 1, 2, or 3 of this section](#) shall be liable for and shall pay the expense of such examination in accordance with [section 507.7](#).

[C71, 73, 75, 77, 79, 81, §521A.6]

[86 Acts, ch 1102, §21, 22; 2014 Acts, ch 1018, §18](#)

Referred to in [§508.33A, 521A.6A, 521A.6B, 521A.7](#)

### **521A.6A Supervisory colleges — assessment of insurers.**

1. *Power of commissioner.* With respect to any insurer registered under [section 521A.4](#) and in accordance with [this section](#), the commissioner shall have the power to participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations in order to determine compliance by the insurer with [this chapter](#). The powers of the commissioner with respect to supervisory colleges include but are not limited to the following:

- a. Initiating the establishment of a supervisory college.
- b. Clarifying the membership and participation of other supervisors in the supervisory college.
- c. Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor.



d. Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing.

e. Establishing a crisis management plan.

2. *Expenses — assessment.* Each registered insurer subject to [this section](#) shall be liable for and shall pay the reasonable expenses of the commissioner's participation in a supervisory college in accordance with [subsection 3](#), including reasonable travel expenses. For purposes of [this section](#), a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates, and the commissioner may establish a regular assessment to the insurer for the payment of these expenses.

3. *Supervisory college.* In order to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management and governance processes, and as part of the examination of individual insurers in accordance with [section 521A.6](#), the commissioner may participate in a supervisory college with other regulators charged with supervision of an insurer or its affiliates, including other state, federal, and international regulatory agencies. The commissioner may enter into agreements in accordance with [section 521A.7, subsection 3](#), providing the basis for cooperation between the commissioner and the other regulatory agencies, and the activities of the supervisory college. Nothing in [this section](#) shall delegate to the supervisory college the authority of the commissioner to regulate or supervise the insurer or its affiliates within the commissioner's jurisdiction.

[2014 Acts, ch 1018, §19; 2016 Acts, ch 1122, §8, 9](#)

Referred to in [§521A.6B, 521A.7](#)

#### **521A.6B Group-wide supervision of internationally active insurance groups.**

1. a. The commissioner may act as the group-wide supervisor of an internationally active insurance group in accordance with the provisions of [this section](#). However, the commissioner may authorize another regulatory official to act as the group-wide supervisor where the internationally active insurance group meets any of the following conditions:

(1) Does not have substantial insurance operations in the United States.

(2) Has substantial insurance operations in the United States, but not in Iowa.

(3) Has substantial insurance operations in the United States and in Iowa, but the commissioner has determined pursuant to the factors set forth in [subsections 2 and 6](#) that another regulatory official is the appropriate group-wide supervisor.

b. In response to a request from an insurance holding company system that does not otherwise qualify as an internationally active insurance group, the commissioner may make a determination of or acknowledge a group-wide supervisor for such an insurance holding company system pursuant to [this section](#).

2. a. In cooperation with other state, federal, and international regulatory agencies, the commissioner shall identify a single group-wide supervisor for an internationally active insurance group. The commissioner may determine that the commissioner is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this state, or the commissioner may acknowledge that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group. In making a determination or acknowledgment under this paragraph "a", the commissioner shall consider the following factors:

(1) The place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets, or liabilities.

(2) The place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group.

(3) The location of the executive offices or largest operational offices of the internationally active insurance group.

(4) Whether another regulatory official is acting as or is seeking to act as the group-wide supervisor of the internationally active insurance group under a regulatory system that the commissioner determines to be either of the following:

(a) Substantially similar to the system of regulation provided under the laws of this state.

(b) Otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials.

(5) Whether another regulatory official acting as or seeking to act as the group-wide supervisor for the internationally active insurance group provides the commissioner with reasonably reciprocal recognition and cooperation.

b. Notwithstanding paragraph “a”, even if the commissioner is identified pursuant to [this subsection](#) as the group-wide supervisor of an internationally active insurance group, the commissioner may determine that it is appropriate to acknowledge another regulatory official to serve as the group-wide supervisor of the internationally active insurance group.

c. The acknowledgment of a group-wide supervisor pursuant to [this subsection](#) shall be made after consideration of the factors listed in paragraph “a”, subparagraphs (1) through (5), and shall be made in cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group, and in consultation with the internationally active insurance group.

3. Notwithstanding any other provision of law, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the commissioner shall acknowledge that regulatory official as the group-wide supervisor of the internationally active insurance group. However, the commissioner shall make a new determination or acknowledgment as to the appropriate group-wide supervisor for the internationally active insurance group in the event that a material change in the internationally active insurance group results in either of the following:

a. The internationally active insurance group’s insurers domiciled in Iowa holding the largest share of the group’s premiums, assets, or liabilities.

b. Iowa being the place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group.

4. Pursuant to [section 521A.6](#), the commissioner is authorized to collect from any insurer registered pursuant to [section 521A.4](#) all information necessary to determine whether it is appropriate for the commissioner to act as the group-wide supervisor of an internationally active insurance group or to acknowledge another regulatory official to act as the group-wide supervisor of the internationally active insurance group. Prior to issuing a determination or acknowledgment pursuant to [this section](#), the commissioner shall notify the insurer registered pursuant to [section 521A.4](#) and the ultimate controlling person within the internationally active insurance group of the pending determination or acknowledgment. The insurer and the internationally active insurance group shall have not less than thirty days to provide the commissioner with additional information pertinent to the commissioner’s pending determination or acknowledgment. The commissioner shall publish the identity of the internationally active insurance groups that the commissioner has determined are subject to group-wide supervision by the commissioner.

5. If a determination is made that the commissioner is the appropriate group-wide supervisor for an internationally active insurance group, the commissioner is authorized to engage in any of the following group-wide supervision activities:

a. Assessing the enterprise risks within the internationally active insurance group to ensure all of the following:

(1) That the material financial condition and liquidity risks to members of the internationally active insurance group that are engaged in the business of insurance are identified by management.

(2) That reasonable and effective mitigation measures are in place.

b. Requesting, from any member of an internationally active insurance group subject to the commissioner’s group-wide supervision, information necessary and appropriate to assess enterprise risk, including but not limited to information about the members of the internationally active insurance group regarding all of the following:

(1) Governance, risk assessment, and management.

(2) Capital adequacy.

(3) Material intercompany transactions.

c. Coordinating and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compelling

the development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance.

d. Communicating with other state, federal, and international regulatory agencies for members within the internationally active insurance group and sharing relevant information, subject to the confidentiality provisions of [section 521A.7](#), through supervisory colleges as set forth in [section 521A.6A](#) or otherwise.

e. Entering into agreements with or obtaining documentation from any insurer registered under [section 521A.4](#), any member of an internationally active insurance group, and any other state, federal, or international regulatory agency for members of the internationally active insurance group, that provides the basis for or otherwise clarifies the commissioner's role as group-wide supervisor of an internationally active insurance group, including provisions for resolving disputes with other regulatory officials. Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in this state is doing business in this state or is otherwise subject to jurisdiction in this state.

f. Other activities of group-wide supervision, consistent with the authority and purposes set forth in [this section](#), as considered necessary by the commissioner.

6. If the commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the national association of insurance commissioners is the group-wide supervisor of an internationally active insurance group, the commissioner may reasonably cooperate through a supervisory college or otherwise, with group-wide supervision undertaken by that regulatory official provided that all of the following occur:

a. The commissioner's cooperation is in compliance with the laws of this state.

b. The regulatory official acknowledged as the group-wide supervisor of the internationally active insurance group also recognizes and cooperates with the commissioner's activities as a group-wide supervisor for other internationally active insurance groups, where applicable. If such recognition and cooperation is not reasonably reciprocal, the commissioner may refuse recognition and cooperation to that regulatory official.

7. The commissioner is authorized to enter into agreements with or obtain documentation from any insurer registered under [section 521A.4](#), any affiliate of the insurer, and any other state, federal, or international regulatory agency for members of the internationally active insurance group, that provides the basis for or otherwise clarifies another regulatory official's role as group-wide supervisor of an internationally active insurance group.

8. An insurer registered under [section 521A.4](#) that is subject to [this section](#) shall be liable for and shall pay the reasonable expenses of the commissioner's participation in the administration of [this section](#), including the engagement of attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff and all reasonable travel expenses. Any persons so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

9. The commissioner shall adopt rules pursuant to [chapter 17A](#) to administer [this section](#). [2016 Acts, ch 1122, §10; 2016 Acts, ch 1138, §26](#)

Referred to in [§521A.1](#), [521A.7](#)

#### **521A.7 Confidential treatment.**

1. All information, documents, and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to [section 521A.6](#) or [521A.6A](#), and all information reported or provided to the commissioner pursuant to [sections 521A.4](#), [521A.5](#), [521A.6A](#), and [521A.6B](#), shall be given confidential treatment, shall not be subject to subpoena, shall not be subject to discovery or admissible in evidence in a private civil action, and shall not be made public by the commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby, notice and opportunity

to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication thereof, in which event the commissioner may publish all or any part thereof in such manner as the commissioner may deem appropriate. However, the commissioner is authorized to use the information, documents, or copies obtained by, disclosed to, or reported or provided to the commissioner as described in [this subsection](#), in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

2. Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner or with whom such documents, materials, or other information are shared pursuant to [this chapter](#) shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or other information subject to [subsection 1](#).

3. In order to assist in the performance of the commissioner's duties, the commissioner:

a. May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to [subsection 1](#), with other state, federal, and international regulatory agencies, with the national association of insurance commissioners and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, including members of any supervisory college described in [section 521A.6A](#), provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information, and has verified in writing the legal authority to maintain confidentiality.

b. Notwithstanding paragraph "a", the commissioner may only share confidential and privileged documents, materials, or information filed pursuant to [section 521A.4, subsection 12](#), with commissioners of states having statutes or regulations substantially similar to [subsection 1 of this section](#) and who have agreed in writing not to disclose such information.

c. May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information from the national association of insurance commissioners and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

d. Shall enter into written agreements with the national association of insurance commissioners governing sharing and use of information provided pursuant to [this chapter](#) consistent with [this subsection](#) that shall do all of the following:

(1) Specify procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners and subsidiaries pursuant to [this chapter](#), including procedures and protocols for sharing by the association with other state, federal, or international regulators.

(2) Specify that ownership of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to [this chapter](#) remains with the commissioner and the association's use of the information is subject to the direction of the commissioner.

(3) Require prompt notice to be given to an insurer whose confidential information in the possession of the national association of insurance commissioners pursuant to [this chapter](#) is subject to a request or subpoena to the association for disclosure or production.

(4) Require the national association of insurance commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the association and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the association and its affiliates and subsidiaries pursuant to [this chapter](#).

4. The sharing of information by the commissioner pursuant to [this chapter](#) shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of the provisions of [this chapter](#).

5. No waiver of any applicable privilege or claim of confidentiality in the documents,

materials, or information shall occur as a result of disclosure to the commissioner under [this section](#) or as a result of sharing as authorized in [subsection 3](#).

6. Documents, materials, or other information in the possession or control of the national association of insurance commissioners pursuant to [this chapter](#) shall be confidential by law and privileged, shall not be subject to [chapter 22](#), shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

[C71, 73, 75, 77, 79, 81, §521A.7]

93 Acts, ch 88, §31; 2014 Acts, ch 1018, §20; 2016 Acts, ch 1122, §11

Referred to in §521A.6A, 521A.6B

#### **521A.8 Rules.**

The commissioner may, upon notice and opportunity for all interested persons to be heard, issue such rules and orders as shall be necessary to carry out the provisions of [this chapter](#).

[C71, 73, 75, 77, 79, 81, §521A.8]

#### **521A.9 Injunctions — prohibitions against voting securities — sequestration of voting securities.**

1. *Injunctions.* Whenever it appears to the commissioner that any insurer or any director, officer, employee, or agent thereof has committed or is about to commit a violation of [this chapter](#) or any rule, regulation, or order issued by the commissioner hereunder, the commissioner may apply to the district court of the county in which the principal office of the insurer is located or if such insurer has no such office in this state then to the district court of Polk county for an order enjoining such insurer or such director, officer, employee, or agent thereof from violating or continuing to violate [this chapter](#) or any such rule, regulation, or order, and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors, and shareholders or the public may require.

2. *Voting of securities — when prohibited.* No security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired or to be acquired, in contravention of the provisions of [this chapter](#) or of any rule, regulation, or order issued by the commissioner hereunder may be voted at any shareholders' meeting, or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though such securities were not issued and outstanding; but no action taken at any such meeting shall be invalidated by the voting of such securities, unless the action would materially affect control of the insurer or unless the district court has so ordered. If any insurer or the commissioner has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of [this chapter](#) or of any rule, regulation, or order issued by the commissioner hereunder the insurer or the commissioner may apply to the district court of Polk county or to the district court for the county in which the insurer has its principal place of business to enjoin any offer, request, invitation, agreement, or acquisition made in contravention of [section 521A.3](#) or any rule, regulation, or order issued by the commissioner thereunder to enjoin the voting of any security so acquired, to void any vote of such security already cast at any meeting of shareholders, and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors, and shareholders or the public may require.

3. *Sequestration of voting securities.* In any case where a person has acquired or is proposing to acquire any voting securities in violation of [this chapter](#) or any rule, regulation, or order issued by the commissioner hereunder, the district court of Polk county or the district court for the county in which the insurer has its principal place of business may, on such notice as the court deems appropriate, upon the application of the insurer or the commissioner seize or sequester any voting securities of the insurer owned directly or indirectly by such person, and issue such orders with respect thereto as may be appropriate to effectuate the provisions of [this chapter](#). Notwithstanding any other provisions of law, for the purposes of [this chapter](#) the situs of the ownership of the securities of domestic insurers shall be deemed to be in this state.

[C71, 73, 75, 77, 79, 81, §521A.9]



**521A.10 Sanctions and penalties.**

1. If the commissioner finds after notice and hearing that a person subject to registration under [section 521A.4](#) failed without just cause to file a registration statement as required in [this chapter](#), the person shall be required to pay a penalty of one thousand dollars for each day's delay. The penalty shall be recovered by the commissioner and deposited as provided in [section 505.7](#). The maximum penalty under [this section](#) is ten thousand dollars. The commissioner may reduce the penalty if the person demonstrates that the imposition of the penalty would constitute a financial hardship to the person.

2. a. A director or officer of an insurance holding company system who does any of the following is subject to the civil penalty imposed under paragraph "b":

(1) Knowingly participates in or assents to transactions or investments which have not been properly reported or submitted pursuant to [section 521A.4](#) or [section 521A.5, subsection 1](#), paragraph "b".

(2) Knowingly permits any of the officers or agents of an insurer to engage in transactions or make investments which have not been properly reported or submitted pursuant to [section 521A.4](#) or [section 521A.5, subsection 1](#), paragraph "b".

(3) Knowingly violates any other provision of [this chapter](#).

b. An officer or director of an insurance holding company system who commits any of the acts or omissions listed in paragraph "a" shall pay, in the person's individual capacity, a civil penalty of not more than one thousand dollars per violation, after notice and hearing before the commissioner. In determining the amount of the civil penalty, the commissioner shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

3. If it appears to the commissioner that an insurer subject to [this chapter](#) has engaged in a transaction or entered into a contract which is subject to [section 521A.5](#) and which would not have been approved had approval been requested, the commissioner may order the insurer to immediately cease and desist any further activity under that transaction or contract. After notice and hearing, the commissioner may also order the insurer to void any contracts and restore the status quo if the commissioner finds that action is in the best interest of the policyholders, creditors, or the public.

4. If it appears to the commissioner that an insurer or a director, officer, agent, or employee of an insurer has committed a willful violation of [this chapter](#), the commissioner may institute criminal proceedings against the insurer or the responsible director, officer, agent, or employee in the district court for the county in which the principal office of the insurer is located, or if the insurer has no office in this state, then in the district court for Polk county. An insurer or individual who willfully violates [this chapter](#) is guilty of a class "D" felony.

5. A director or officer, or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statements, false reports, or false filings with the intent to deceive the commissioner in the performance of the commissioner's duties under [this chapter](#) is guilty of a class "D" felony. Any fines imposed shall be paid by the director, officer, or employee in the person's individual capacity.

[C71, 73, 75, 77, 79, 81, §521A.10]

[86 Acts, ch 1102, §23; 91 Acts, ch 26, §55, 56; 2009 Acts, ch 181, §88](#)

Referred to in [§521A.5](#)

**521A.11 Receivership.**

Whenever it appears to the commissioner that any person has committed a violation of [this chapter](#) which so impairs the financial condition of a domestic insurer as to threaten insolvency or make the further transaction of business by it hazardous to its policyholders, creditors, shareholders or the public, then the commissioner may proceed as provided in [section 505.9](#) to take possession of the property of such domestic insurer and to conduct the business thereof.

[C71, 73, 75, 77, 79, 81, §521A.11]

**521A.11A Recovery.**

1. Subject to [subsections 2 through 4](#), if an order for liquidation, conservation, or rehabilitation of a domestic insurer has been entered, the receiver appointed under the order may recover on behalf of the insurer either of the following if made within one year preceding the filing of the petition for liquidation, conservation, or rehabilitation:

a. From a parent corporation, holding company, affiliate, or other person who otherwise controlled the insurer, the amount of distributions, other than distributions of shares of the same class of stock, paid by the insurer on its capital stock.

b. Any payment in the form of a bonus, termination settlement, or extraordinary lump sum salary adjustment made by the insurer or a subsidiary of the insurer to a director, officer, agent, or employee.

2. A distribution is not recoverable if the parent holding company, affiliate, or other person shows that when the distribution was paid it was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

3. A parent corporation, holding company, affiliate, or other person who otherwise controlled the insurer or affiliate at the time the distributions were paid is liable only up to the amount of distributions or payments under [subsection 1](#) that the person received. A person who otherwise controlled the insurer at the time the distributions were declared is liable only up to the amount of distributions the person would have received if the person had been paid immediately. If two or more persons are liable with respect to the same distributions, each shall be separately liable for their distributive share.

4. The maximum amount recoverable under [this section](#) shall be the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the contractual obligations of the impaired or insolvent insurer and to reimburse any guaranty funds.

5. To the extent that a person liable under [subsection 3](#) is insolvent or otherwise fails to pay claims due from the person pursuant to [this section](#), the person's parent corporation, holding company, affiliate, or other person who otherwise controlled it at the time the distribution was paid, is separately liable for its share of any resulting deficiency in the amount recovered from the parent corporation, holding company, affiliate, or other person who otherwise controlled it.

[86 Acts, ch 1102, §24; 87 Acts, ch 115, §67](#)

**521A.12 Revocation, suspension, or nonrenewal of insurer's license.**

Whenever it appears to the commissioner that any person has committed a violation of [this chapter](#) which makes the continued operation of an insurer contrary to the interest of policyholders or the public, the commissioner may, after giving notice and an opportunity to be heard, determine to suspend, revoke or refuse to renew such insurer's license or authority to do business in this state for such period as the commissioner finds is required for the protection of policyholders or the public. Any such determination shall be accompanied by specific findings of fact and conclusions of law.

[C71, 73, 75, 77, 79, 81, §521A.12]

**521A.13 Judicial review.**

Judicial review of the actions of the commissioner may be sought in accordance with the terms of the Iowa administrative procedure Act, [chapter 17A](#).

[C71, 73, 75, 77, 79, 81, §521A.13]

[2003 Acts, ch 44, §114](#)

## MUTUAL INSURANCE HOLDING COMPANIES

**521A.14 Mutual insurance holding companies.**

1. a. A domestic mutual insurance company, upon approval of the commissioner, may reorganize by forming an insurance holding company based upon a mutual plan and continuing the corporate existence of the reorganizing insurance company as a stock

insurance company. The commissioner, after a public hearing as provided in [section 521A.3, subsection 4](#), paragraph “b”, if satisfied that the interests of the policyholders are properly protected and that the plan of reorganization is fair and equitable to the policyholders, may approve the proposed plan of reorganization and may require as a condition of approval such modifications of the proposed plan of reorganization as the commissioner finds necessary for the protection of the policyholders’ interests. The commissioner may retain consultants as provided in [section 521A.3, subsection 4](#), paragraph “d”. A reorganization pursuant to [this section](#) is subject to [section 521A.3, subsections 1, 2, and 3](#). The commissioner shall retain jurisdiction over a mutual insurance holding company organized pursuant to [this section](#) to assure that policyholder interests are protected.

b. All of the initial shares of the capital stock of the reorganized insurance company shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurance company.

2. a. A domestic mutual insurance company, upon the approval of the commissioner, may reorganize by merging its policyholders’ membership interests into a mutual insurance holding company formed pursuant to [subsection 1](#) and continuing the corporate existence of the reorganizing insurance company as a stock insurance company subsidiary of the mutual insurance holding company. The commissioner, after a public hearing as provided in [section 521A.3, subsection 4](#), paragraph “b”, if satisfied that the interests of the policyholders are properly protected and that the merger is fair and equitable to the policyholders, may approve the proposed merger and may require as a condition of approval such modifications of the proposed merger as the commissioner finds necessary for the protection of the policyholders’ interests. The commissioner may retain consultants as provided in [section 521A.3, subsection 4](#), paragraph “d”. A merger pursuant to [this section](#) is subject to [section 521A.3, subsections 1, 2, and 3](#). The commissioner shall retain jurisdiction over the mutual insurance holding company organized pursuant to [this section](#) to assure that policyholder interests are protected.

b. All of the initial shares of the capital stock of the reorganized insurance company shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurance company. A merger of policyholders’ membership interests in a mutual insurance company into a mutual insurance holding company shall be deemed to be a merger of insurance companies pursuant to [chapter 521](#) and [chapter 521](#) is also applicable.

c. A foreign mutual insurance company, or a foreign health service corporation, which if a domestic corporation would be organized under [chapter 514](#), may reorganize upon the approval of the commissioner and in compliance with the requirements of any law or regulation which is applicable to the foreign mutual insurance company or foreign health service corporation by merging its policyholders’ or subscribers’ membership interests into a mutual insurance holding company formed pursuant to [subsection 1](#) and continuing the corporate existence of the reorganizing foreign mutual insurance company or reorganizing foreign health service corporation as a foreign stock insurance company subsidiary of the mutual insurance holding company. The commissioner, after a public hearing as provided in [section 521A.3, subsection 4](#), paragraph “b”, may approve the proposed merger. The commissioner may retain consultants as provided in [section 521A.3, subsection 4](#), paragraph “d”. A merger pursuant to this paragraph is subject to [section 521A.3, subsections 1, 2, and 3](#). The reorganizing foreign mutual insurance company or reorganizing foreign health service corporation may remain a foreign company or foreign corporation after the merger,

and may be admitted to do business in this state. A foreign mutual insurance company or foreign mutual health service corporation which is a party to the merger may at the same time redomesticate in this state by complying with the applicable requirements of this state and its state of domicile. The provisions of paragraph “b” shall apply to a merger authorized under this paragraph, except that a reference to policyholders in that paragraph is also deemed to include subscribers in the case of a health service corporation.

3. A mutual insurance holding company resulting from the reorganization of a domestic mutual insurance company organized under [chapter 491](#) shall be incorporated pursuant to [chapter 491](#). This requirement shall supersede any conflicting provisions of [section 491.1](#). The articles of incorporation and any amendments to such articles of the mutual insurance holding company shall be subject to approval of the commissioner in the same manner as those of an insurance company.

4. A mutual insurance holding company is deemed to be an insurer subject to [chapter 507C](#) and shall automatically be a party to any proceeding under [chapter 507C](#) involving an insurance company which as a result of a reorganization pursuant to [subsection 1 or 2](#) is a subsidiary of the mutual insurance holding company. In any proceeding under [chapter 507C](#) involving the reorganized insurance company, the assets of the mutual insurance holding company are deemed to be assets of the estate of the reorganized insurance company for purposes of satisfying the claims of the reorganized insurance company’s policyholders. A mutual insurance holding company shall not dissolve or liquidate without the approval of the commissioner or as ordered by the district court pursuant to [chapter 507C](#).

5. *a.* [Chapters 508B](#) and [515G](#) are not applicable to a reorganization or merger pursuant to [this section](#).

*b.* [Chapter 508B](#) is applicable to demutualization of a mutual insurance holding company which resulted from the reorganization of a domestic mutual life insurance company organized under [chapter 508](#) as if it were a mutual life insurance company.

*c.* [Chapter 515G](#) is applicable to demutualization of a mutual insurance holding company which resulted from the reorganization of a domestic mutual property and casualty insurance company organized under [chapter 515](#) as if it were a mutual property and casualty insurance company.

6. A membership interest in a domestic mutual insurance holding company shall not constitute a security as defined in [section 502.102](#).

7. *a.* The majority of the voting shares of the capital stock of the reorganized insurance company, which is required by [this section](#) to be at all times owned by a mutual insurance holding company, shall not be conveyed, transferred, assigned, pledged, subjected to a security interest or lien, encumbered, or otherwise hypothecated or alienated by the mutual insurance holding company or intermediate holding company. Any conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, or hypothecation or alienation of, in or on the majority of the voting shares of the reorganized insurance company which is required by [this section](#) to be at all times owned by a mutual insurance holding company, is in violation of [this section](#) and shall be void in inverse chronological order of the date of such conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, or hypothecation or alienation, as to the shares necessary to constitute a majority of such voting shares. The majority of the voting shares of the capital stock of the reorganized insurance company which is required by [this section](#) to be at all times owned by a mutual insurance holding company shall not be subject to execution and levy as provided in [chapter 626](#). The shares of the capital stock of the surviving or new company resulting from a merger or consolidation of two or more reorganized insurance companies or two or more intermediate holding companies which were subsidiaries of the same mutual insurance holding company are subject to the same requirements, restrictions, and limitations as provided in [this section](#) to which the shares of the merging or consolidating reorganized insurance companies or intermediate holding companies were subject by [this section](#) prior to the merger or consolidation.

*b.* As used in [this section](#), “majority of the voting shares of the capital stock of the reorganized insurance company” means shares of the capital stock of the reorganized insurance company which carry the right to cast a majority of the votes entitled to be cast

by all of the outstanding shares of the capital stock of the reorganized insurance company for the election of directors and on all other matters submitted to a vote of the shareholders of the reorganized insurance company. The ownership of a majority of the voting shares of the capital stock of the reorganized insurance company which are required by [this section](#) to be at all times owned by a parent mutual insurance holding company includes indirect ownership through one or more intermediate holding companies in a corporate structure approved by the commissioner. However, indirect ownership through one or more intermediate holding companies shall not result in the mutual insurance holding company owning less than the equivalent of a majority of the voting shares of the capital stock of the reorganized insurance company. The commissioner shall have jurisdiction over an intermediate holding company as if it were a mutual insurance holding company. As used in [this section](#), “*intermediate holding company*” means a holding company which is a subsidiary of a mutual insurance holding company, and which either directly or through a subsidiary intermediate holding company has one or more subsidiary reorganized insurance companies of which a majority of the voting shares of the capital stock would otherwise have been required by [this section](#) to be at all times owned by the mutual insurance holding company.

[95 Acts, ch 185, §44, 48; 96 Acts, ch 1014, §1, 2; 2009 Acts, ch 145, §52; 2012 Acts, ch 1023, §157](#)

Referred to in [§505.23, 521.1, 521I.1](#)